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January 25, 2022

By ECF

Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *United States v. Michael Avenatti*, 19 Cr. 373 (PGG)

Your Honor:

I write to address the government's letter filed this evening advising the Court of a bottom-line ruling issued earlier today by the Honorable Jesse M. Furman in *United States v. Avenatti*, 19 Cr. 374 (JMF) (the Daniels Case). We are surprised that the government submitted this update because it supports the position in our pending motion in this case.

In the part of Judge Furman's ruling that is potentially relevant to this case, Judge Furman made two points. First, Judge Furman concluded "most fundamentally" that Mr. Avenatti was seeking materials that he already possessed. That of course is the opposite of what is before this Court. The whole point of our pending motion is that Mr. Avenatti did not have these materials before the early 2020 trial in this case. *See* Dkt. 363 (defense reply) at 12-13. And the government does not appear to contend otherwise.

Second, Judge Furman stated that "the prosecution team for purposes of this case [the Daniels case] does not include the Central District of California or Main Justice . . . except perhaps with respect to Ms. Regnier and Mr. Macias" (Dkt. 371-1 at 72:6-72:7), *i.e.*, witnesses called to testify about Mr. Avenatti's financial condition. That is precisely the point that this Court made in its July 6 opinion and that we rely on in the motion pending before this Court. Dkt. 336 at 85-86 (Memorandum Opinion & Order finding that the offices, "at least as to Regnier, engaged in joint and coordinating fact gathering."),¹ Dkt. 363 (defense reply) at 2, 14. There is no question that the two United

¹ In addition, the Court opined that "in producing Regnier statements obtained by CDCA prosecutors at interviews not attended by SDNY personnel, the Government appears to have acknowledged that its discovery and *Brady/Giglio* obligations extended

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States Attorneys' Offices worked together concerning Mr. Avenatti's finances. Dkt. 363 at 2-9.

Finally, contrary to the suggestion in the second paragraphs of the government's letter, Judge Furman's ruling in the Daniels Case did not address materials created for the government by John Drum. The government quotes correspondence between the parties attached as *an exhibit* to the motion to compel in the Daniels Case "referencing any documents or communications received from John Drum." Dkt. 371 at 1. But Judge Furman did not address those materials or that correspondence.

In short, Judge Furman's bottom-line ruling supports this Court's prior ruling about joint and coordinated fact gathering surrounding the witnesses interviewed and called to testify about Mr. Avenatti's financial condition; and it underscores that Mr. Avenatti did not have the relevant materials before the trial in this case. Thank you for your consideration.

Respectfully submitted,

/s/ Benjamin Silverman

Benjamin Silverman

Attorney for Michael Avenatti

cc: Counsel of Record (by ECF)

(Attachment)

to interviews of Regnier in which the SDNY prosecution team played no part." *Id.* at 86.